

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
 :
Plaintiffs, :
vs. : Case No. 01-CV-769
 : (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
 :
Defendants. :

Deposition of JASON LEE HODGE, defendant

herein, called by the plaintiff for

cross-examination, pursuant to the Federal Rules of

Civil Procedure, taken before me, Wendy Davies

Welsh, a Registered Diplomate Reporter and Notary

Public in and for the State of Ohio, at the offices

of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &

Walnut Centre, 105 East Fourth Street, Cincinnati,

Ohio, on Thursday, April 8, 2004, at 10:06 a.m.

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April 8, 2004

JASON LEE HODGE

<p>1 APPEARANCES: Page 2</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Paul B. Martins, Esq. Don Stiens, Esq. 4 Frederick M. Morgan, Jr., Esq. Helmer, Martins & Morgan Co. LPA 5 Suite 1900, Fourth & Walnut Centre 105 East Fourth Street 6 Cincinnati, Ohio 45202 Phone: (513) 421-2400</p> <p>7 John J. Helbling, Esq. 8 The Helbling Law Firm, L.L.C. 3672 Springdale Road 9 Cincinnati, Ohio 45251 Phone: (513) 923-9740</p> <p>10 On behalf of the Defendants City of Golf Manor, 11 Stephen Tilley, Roby Heiland and Chris Campbell:</p> <p>12 Wilson G. Weisenfelder, Jr., Esq. 13 Rendigs, Fry, Kiely & Dennis 900 Fourth & Vins Tower 14 One West Fourth Street Cincinnati, Ohio 45202-3688 15 Phone: (513) 381-9200</p> <p>16 On behalf of the Defendants Robert B. Jorg, 17 Patrick Caton, Jason Hodge, Victor Spellman and Darren Sellers:</p> <p>18 Donald E. Hardin, Esq. 19 Kimberly A. Rutowski, Esq. Hardin, Lefton, Lazarus & Marks, LLC 20 915 Cincinnati Club Building 30 Garfield Place 21 Cincinnati, Ohio 45202 Phone: (513) 721-7300</p> <p>22 Also present: 23 Lisa Damstrom, Law Clerk Helmer, Martins & Morgan Co., L.P.A. 24</p>	<p>1 INDEX Page 4</p> <p>2 Examination by: Page</p> <p>3 Mr. Martins 5</p> <p>4</p> <p>5 E X H I B I T S</p> <p>6 Page</p> <p>7</p> <p>8 Deposition Exhibit 152 8 Deposition Exhibit 153 30 9 Deposition Exhibit 154 33 Deposition Exhibit 155 67 10 Deposition Exhibit 156 83 Deposition Exhibit 157 104 11 Deposition Exhibit 158 104 Deposition Exhibit 159 110 12 Deposition Exhibit 160 112 Deposition Exhibit 161 123 13 Deposition Exhibit 162 124 Deposition Exhibit 163 128 14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>1 S T I P U L A T I O N S Page 3</p> <p>2 It is stipulated by and among counsel for the</p> <p>3 respective parties that the deposition of JASON LEE</p> <p>4 HODGE, defendant herein, called by the plaintiff for</p> <p>5 cross-examination, pursuant to the Federal Rules of</p> <p>6 Civil Procedure, may be taken at this time by the</p> <p>7 notary; that said deposition may be reduced to</p> <p>8 writing in stenotype by the notary, whose notes may</p> <p>9 then be transcribed out of the presence of the</p> <p>10 witness; and that proof of the official character</p> <p>11 and qualifications of the notary is expressly</p> <p>12 waived.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 JASON LEE HODGE Page 5</p> <p>2 being by me first duly cautioned and sworn, deposes</p> <p>3 and says as follows:</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. MARTINS:</p> <p>6 Q. Sir, would you state for the record your</p> <p>7 full name, please.</p> <p>8 A. My name is Jason Lee Hodge.</p> <p>9 Q. Your age?</p> <p>10 A. 34.</p> <p>11 Q. Date of birth?</p> <p>12 A. February 20th, 1970.</p> <p>13 Q. February what?</p> <p>14 A. 20th.</p> <p>15 Q. Have you ever had your deposition taken?</p> <p>16 A. No.</p> <p>17 Q. This sort of procedure?</p> <p>18 A. No.</p> <p>19 Q. Let me cover some ground rules. You've</p> <p>20 been placed under oath. I am asking you some</p> <p>21 questions. If I should ask you a question and you</p> <p>22 either don't understand the question or you haven't</p> <p>23 heard the question, just ask me to clarify it or</p> <p>24 repeat it. I'll do my best. If you give me an</p>

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1 Caton taking the handcuffs off of, either one or
2 both, taking the handcuffs off of Mr. Owensby?
3 A. No.
4 Q. Do you recall seeing anybody remove the
5 handcuffs?
6 A. No.
7 Q. When you had your CPR training at the
8 police academy do you recall whether you received
9 any instructions concerning whether or not if
10 someone's hands are handcuffed behind their back,
11 whether the handcuffs should be removed in order to
12 do CPR?
13 A. I don't remember anything about that.
14 Q. Continuing on, you say, "looked like they
15 put a suction hose down his throat when the took
16 the, took the hose out. . . like. . . yellowish
17 white flakes came out of his mouth. I told Hasse I
18 said, 'Go get me a . . . property envelope.' I went
19 and put a glove on. . . I recovered those flakes. I
20 thought it was, it may of been crack cocaine or
21 something." Do you recall that happening?
22 A. Yes.
23 Q. The yellowish white flakes coming out of
24 his mouth, was that on the hose that they took out

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1 of his throat?
2 A. No, they were around his mouth. It was
3 around his mouth.
4 Q. But it was after they had pulled the hose
5 out?
6 A. Yes.
7 Q. Why did you think that it was crack
8 cocaine?
9 A. It's been my experience as a police
10 officer that we have the knowledge that when people
11 ingest certain drugs it can cause people to have
12 heart attacks or just certain medical problems. And
13 I thought that that might have been a possibility of
14 why the fire department had to be called and why CPR
15 was being done, because he possibly had ingested
16 drugs. And I wanted to recover that substance to
17 have it tested.
18 Q. My question though is, why crack cocaine?
19 Why not PCP or some other --
20 A. Because crack cocaine has a yellowish
21 white tint to it.
22 Q. Did you collect, physically collect the
23 yellowish white substance into an evidence envelope
24 or did someone else?

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1 A. I did.
2 Q. So you collect it in an evidence envelope.
3 What do you do with it?
4 A. I closed the envelope and handed it back
5 to Hasse.
6 Q. Did you give him any instructions?
7 A. I told him to hold on to it.
8 Q. Did Officer Hasse say anything to you
9 about it?
10 A. I don't recall if he said anything at the
11 scene about it, no.
12 Q. Other than seeing this white or yellowish
13 substance around Mr. Owensby's mouth after the hose
14 was taken out, did you have any reason to believe
15 that Mr. Owensby had ingested any crack cocaine?
16 A. Other than that, no.
17 Q. I take it, as someone in the mini-tac
18 unit, you come into contact with people who either
19 sell or use crack cocaine?
20 A. Most officers in Cincinnati do, yes.
21 Q. Do you know whether or not on this day
22 whether you had made any arrests for crack cocaine
23 before arriving on the scene?
24 A. No, I did not.

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1 Q. When you say, "No, I did not," no --
2 A. I did not make any arrests.
3 Q. "No, I did not make any arrests"?
4 A. Not that day.
5 Q. Because it was fairly early in your shift?
6 A. It was at the beginning of my shift, yes.
7 Q. Do you know whether or not you had made
8 any arrests for crack cocaine the day before?
9 A. I don't recall if I did or not.
10 Q. Do you know whether or not any of the
11 other police officers at the scene had made any
12 arrests for crack cocaine?
13 A. I don't know.
14 Q. When an officer makes an arrest for any
15 drug, whether it be crack or something else, was it
16 at that time the practice to inform the mini-tac
17 unit?
18 A. No, not necessarily.
19 Q. As I recall, the reason that you were even
20 at the Roselawn area was because Officers Hasse and
21 Sellers had arrested someone for possession of
22 marijuana and they were interested in having you
23 interrogate the person to see if you could find some
24 information about --

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1 "After that point I noticed that Officer Jorg had
2 blood on his left sleeve." Do see that?
3 A. Yes.
4 Q. Then further down through the statement on
5 that page you say, "I finally got his attention,"
6 that's the beginning of the next paragraph, "his
7 police car was just I guess for the record it is
8 96340 where the police car where we were standing
9 behind. I was cutting his sleeve off. . ."
10 And then you continue down, and you say at
11 line 18, "He looked really upset so I went up and
12 tried to console him saying look, you know, I don't
13 think, I don't think this is your fault. I think
14 the guy might have swallowed crack or something."
15 Do you see that?
16 A. Yes.
17 Q. Do you recall saying to Officer Jorg, "I
18 think the guy might have swallowed crack or
19 something"?
20 A. Right now I don't remember saying that to
21 him, but apparently, I did.
22 Q. Well, my question is, if you cut the
23 sleeve off before CPR was administered, and that
24 would have been before you saw the white substance

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1 around Mr. Owensby's mouth when the hose was pulled
2 off, what basis you would have for telling Officer
3 Jorg, while you're cutting the sleeve off, that you
4 think this guy might have swallowed crack?
5 MR. HARDIN: I'm going to object on the
6 basis that, first of all, you've left out a
7 great deal of the answer that hasn't been read
8 in. It goes on for another page and a half,
9 along with the part right after what you read
10 that says, "Let me jump back-- I missed out a
11 part." So I'm going to object.
12 Go ahead and answer.
13 MR. MARTINS: No. No. No. That's fine.
14 I misread that and I withdraw the question.
15 Q. Let me ask you then, at the time you cut
16 the sleeve off of Officer Jorg, did you say anything
17 to him about thinking that the person had taken
18 crack?
19 A. I don't believe I did, no.
20 Q. On the next page, 441, at line 20 and 21
21 you say, "I came back into Sunoco store, bought him
22 a soda, walked it back to him." Do you see that?
23 A. Yes.
24 Q. Can you tell me, take a look at the

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1 statement, whether or not you were buying the soda
2 for Officer Jorg or Officer Caton or someone else?
3 A. It appears, Officer Caton.
4 Q. Do you have an independent recollection of
5 buying the soda for Officer Caton?
6 A. I believe I remember buying a soda, but I
7 don't remember who I bought it for.
8 Q. Go to page 446. Actually, the bottom of
9 445. Line 23, you're talking about a conversation
10 you had with Officer Caton. And then if you go over
11 onto 446, line 5 and 6 you say, "Caton had stated to
12 me that he did punch him."
13 Having seen this, do you recall a
14 conversation with Officer Caton where he said that
15 he did punch Mr. Owensby?
16 A. I've heard it several times. I don't
17 remember exactly when I was told the first time.
18 Q. My question is, do you recall Officer
19 Caton telling you that he, Officer Caton, punched
20 Mr. Owensby?
21 A. I don't remember exactly him telling me
22 that, no.
23 Q. You see that the follow-up question at
24 line 9 says, "Did he say whether he needed to punch

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1 him in order to do what he was trying to do or did
2 he say he was mad and punched him or you know?"
3 And you say, "I don't, I couldn't quote
4 him on anything, I don't think, I don't know."
5 Do you see that?
6 A. Yes.
7 Q. As you sit here today, do you know whether
8 or not Officer Caton ever indicated to you that he
9 punched Mr. Owensby out of anger or out of trying to
10 get him to comply?
11 A. Do I know whether or not he punched him
12 out of anger or to comply?
13 Q. I'll give a third option. That is whether
14 or not Officer Caton told you that he punched Mr.
15 Owensby at all?
16 MR. HARDIN: Wait a minute. I'm going to
17 object. I don't understand where the question
18 is.
19 MR. MARTINS: Okay. Let me rephrase it.
20 Q. You see what I've just read to you,
21 lines 9 through 13. The question is put to you as
22 to whether or not Officer Caton told you that he
23 needed to punch in order to try to get Mr. Owensby
24 to do something or whether or not he was mad and